



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of

Kazunori YAMAZAKI et al.

Serial No.: 10/577036 Art Unit: 1612

Filed: April 24, 2006 Examiner: Nannette HOLLOMAN

For: COSMETIC COMPOSITION

DECLARATION UNDER RULE 132

Honorable Commissioner of Patents and Trademarks

Washington D.C. 20231

Sir:

I, Kinya HOSOKAWA, a citizen of Japan, residing at c/o SHISEIDO Research Center, 2-2-1 Hayabuchi Tsuzuki-ku, Yokohama-shi, Kanagawa, Japan, sincerely and solemnly declare:

That I am by profession a research chemist and that I graduated from Tokyo Institute of Technology, Faculty of Engineering, Department of Chemical Engineering, in March 1988, and from the Master Course of Tokyo Institute

of Technology, Major of Chemical Engineering in Science and Engineering in March, 1990. Since April, 1990, I have been employed by SHISEIDO Company, Ltd., and have been engaged in research mainly into cosmetic compositions.

THAT I am one of the inventors of the above-identified U.S. Patent Application and am, therefore, completely familiar with the invention as disclosed and claimed in the above-mentioned application (i.e., the present application) and also am familiar with the Office Actions issued, for the U.S. application S.N. 10/113,940.

In order to show the superiority of the use of the specified ester of pentaerythritol and a benzoic acid in the cosmetic composition according to the present invention over Mitsumatsu (WO'977) and Healy (WO'285), the following Experiments were carried out under my direction and supervision.

EXPERIMENT

The following Experiments A and B were carried for the purpose of showing the superiority of the use of dibenzoic acid·2-ethylhexanoic acid· behenic acid pentaerythritol ester, which R¹ is a 2-ethylhexanoic acid residue and R² is

a behenic acid residue in the formula (I) in the claim 1.

The tests were carried out in the same manner as disclosed in the present application. The results are shown in the Table below.

CONCLUSION

From the test results shown in the following Table, together with Examples 1 and 2 and Comparative Examples 1 and 2 of the present application and based on my own experience and knowledge, I conclude that the advantageous results, i.e., the cosmetic durability as well as excellent moisture feeling and gloss were obtained by the use of the specified ester of pentaerythritol and a benzoic acid having the formula (I) shown in the present claim 1. This is by no means obvious from Mitsumatsu and Healy.

TABLE

	Exp. A	Exp. B	Ex. 1*1	Ex. 2*1	Comp. Ex. 1*1	Comp. Ex. 2*1
Tribenzoic acid -mono-2-ethylhexanoic acid pentaerythritol ester	-	-	30	50	-	-
Tetra-2-ethylhexanoic acid pentaerythritol ester	-	-	-	-	30	-
2-Ethylhexanoic acid - methoxycinnamic acid pentaerythritol ester	-	-	-	-	-	30
Dibenzoic acid-2-ethylhexanoic acid-behenic acid pentaerythritol ester	30	50	-	-	-	-
Squalane	5	5	5	5	5	5
Methylphenyl polysiloxane 20 cs	5	5	5	5	5	5
Diisostearyl malate	10	10	10	10	10	10
Glyceryl diiso stearate	10	10	10	-	10	10
Glyceryl tri-2-ethylhexanoate	10	10	10	-	10	10
Trimethyl pentaphenyl trisiloxane	10	10	10	10	10	10
Ceresin wax	11	11	11	11	11	11
Microcrystalline wax	2	2	2	2	2	2
Silicone-coated red pigment	4	4	4	4	4	4
Bengara-coated titanated mica	3	3	3	3	3	3
Fragrance	q.s.	q.s.	q.s.	q.s.	q.s.	q.s.
(Total)	(100)	(100)	(100)	(100)	(100)	(100)
Ease of application	B	B	B	B	B	B
Stickiness	B	B	B	B	B	B
Gloss on lips	B	A	B	A	D	C
Moisture feeling	B	A	B	A	C	C
Cosmetic durability	A	A+	B	A	C	C

*1: See the present application

I, the undersigned declarant, declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and; further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001, of Title 18, of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed this 7th day of May, 2009.

Kinya Horikawa